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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/756,740	01/13/2004	Andy Ming Fen Tung	1238.68990	1841
24978	7590	07/24/2007		
GREER, BURNS & CRAIN 300 S WACKER DR 25TH FLOOR CHICAGO, IL 60606			EXAMINER BOWERS, NATHAN ANDREW	
			ART UNIT 1744	PAPER NUMBER
			MAIL DATE 07/24/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/756,740	Applicant(s) TUNG, ANDY MING FEN	
	Examiner Nathan A. Bowers	Art Unit 1744	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 May 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>01304</u> | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

In response to Applicant's amendments, claims 1-40 will be examined together because the independent apparatus and method claims include nearly identical limitations.

### ***Claim Objections***

Claim 40 is objected to because of the following informalities: claim 40 is written as being dependent on claim 40. Appropriate correction is required. It is understood that claim 40 should be dependent on claim 37.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 12 and 30 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 12 and 30 recite the limitation "the raw material." There is insufficient antecedent basis for this limitation in the claims.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

- 1) Claims 1, 8, 30, 31 and 35-39 are rejected under 35 U.S.C. 102(b) as being anticipated by Shindo (US 5587320).

With respect to claims 1 and 30, Shindo discloses a treatment apparatus comprising a reactor basin (Figure 9:150) for containing raw material and excrement provided with at least two concave parts (Figure 10:521 and Figure 10:522) having curved bottoms. A temperature control means (Figure 9:153) in the form of a heater and thermostat are provided for maintaining the temperature within the reactor basin at a predetermined range. At least two mixing devices (Figure 9:140 and Figure 9:145) are positioned within each of the concave parts. This is disclosed in column 13, line 44 to column 14, line 61.

With respect to claim 8, Shindo discloses the apparatus in claim 1 wherein the reactor basin is covered by a top plate (Figure 9:151) on which a drop inlet is provided. Shindo states that materials to be composted are moved through the drop inlet and collected in the reactor basin.

With respect to claims 31, 35 and 36, Shindo discloses the method in claim 30 wherein the mixing means is driven within a predetermined time interval. This is described in column 4, lines 4-21 and column 12, lines 46-64. Shindo states that the

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mixing devices is driven in forward and reverse directions so as to sufficiently stir the waste.

With respect to claims 37 and 39, Shindo discloses the method in claim 30 wherein the range of predetermined temperature is about 50 to 70 degrees Celsius. Column 13, lines 7-12 state that the temperature within the reactor is maintained at 55 to 65 degrees Celsius. Column 14, lines 2-4 indicate that the temperature within the reactor is maintained at 60 to 80 degrees Celsius. As previously described in the above rejections, Shindo further teaches that the mixing devices are driven when the treatment apparatus comes into use.

With respect to claim 38, Shindo discloses the method in claim 37 wherein sawdust is added to the reactor. Shindo teaches in column 1, lines 40-54 that sawdust is routinely added to waste treatment reactors as a fermentation aid.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

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2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

- 2) Claim 40 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shindo (US 5587320) as applied to claim 37.

Shindo discloses the method set forth in claim 37 as set forth in the 35 U.S.C. 102 rejections above, however does not expressly disclose that the mixing means is driven after the degradation process is completed. Regardless, it would have been obvious to continue rotation of the mixing means during cleaning procedures following the treatment of wastes. It would have been apparent to one of ordinary skill in the art that rotation of the mixing means would ensure that every surface of the agitation blades is exposed during cleaning.

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3) Claims 2-7, 9, 10, 20-23 and 26-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shindo (US 5587320) in view of the English translations of Kitsui (JP11300324) and/or Kitsui (JP 2001120460).

With respect to claims 2-7, Shindo discloses the apparatus as previously described in the rejections above. Shindo describes the use of at least two mixing devices comprising separate rotation shafts spaced apart from each other, however Shindo does not expressly state that each shaft includes a helical blade stirrer provided on a plurality of spokes.

The Kitsui references disclose treatment apparatuses designed for processing excrement. Mixing devices are provided in the form of a rotation shaft comprising a helical blade stirrers supported by a plurality of spokes. Kitsui additionally indicates that mixing rings are provided for loosening and scraping. It is clear from the Figures that the helical blade stirrers are divided into two continuous and evenly spaced parts.

Shindo and Kitsui are analogous art because they are from the same field of endeavor regarding organic waste processing devices.

At the time of the invention, it would have been obvious to modify the mixing means of Shindo according to design set forth by Kitsui. Kitsui indicates that the use of a rotation shaft comprising multiple sets of helical blade stirrers are well known in the art and effective in the processing of organic wastes. It would have been apparent to use any known agitation blade configuration in the system of Shindo in order to enhance the treatment procedure.

With respect to claims 9, 10, 12-19, 22, 23 and 29, Shindo and Kitsui disclose the combination as set forth above. Shindo and Kitsui each disclose the use of a control unit to regulate the temperature and movement of the agitation system. In addition, Kitsui states that it is known in the art to provide an organic waste reactor basin underneath a floor. Kitsui indicates that excrement is allowed to move through the floor via a conduit that has an outlet in communication with the reactor basin.

At the time of the invention, it would have been obvious to utilize the system of Shindo as a bio-toilet in such a way that the organic waste reactor basin is provided underneath a floor with a conduit in communication with the reactor inlet. The Kitsui references teach that this configuration is known in the art as a mechanism by which to immediately and effectively begin the degradation of excrement. In light of the teachings of Kitsui, one of ordinary skill in the art would recognize that the reactor of Shindo is fully capable of being positioned underneath the intermediary floor of a bio-toilet.

With respect to claims 20, 21 and 26, Shindo and Kitsui disclose the apparatus set forth in claims 13 and 19 as set forth in the 35 U.S.C. 103 rejections above. Furthermore, Shindo indicates in column 13, line 66 to column 14, line 5 that heating plates (Figure 9:153) are provided on the outer surface of the reaction basin. Column 11, lines 46-51 state that an insulation layer is provided. Although Shindo does not expressly disclose the use of spring hooks to secure the insulation layer, the use of

spring hooks is considered to be well known in the art and fully compatible with the design set forth by Shindo.

With respect to claims 27 and 28, Shindo and Kitsui disclose the apparatus set forth in claim 12 as set forth in the 35 U.S.C. 103 rejections above. Additionally, Shindo discloses that the reactor comprises an exhaust device capable of removing gases from the basin. Kitsui indicates that it is known in the art to utilize an air outlet in the top plate of the tank in communication with an exhaust fan and an air vent tube opening to the outside.

4) Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shindo (US 5587320) in view of the English translations of Kitsui (JP11300324) and/or Kitsui (JP 2001120460) as applied to claim 1, and further in view of Shimizu (EP 0599661).

Shindo and Kitsui disclose the apparatus set forth in the rejections above, however do not expressly indicate that the helical blade stirrers of the multiple mixing devices overlap partially.

Shimizu discloses a reactor basin (Figure 1:1) for containing raw material and excrement. The reactor basin includes at least two mixing devices (Figure 2:6) that comprise a rotation shaft and a plurality of mixing blades. This is described in column 3, line 21 to column 4, line 48. It is apparent from Figures 2, 3 and 11 that the mixing blades overlap in their movement.

Shindo, Kitsui and Shimizu are analogous art because they are from the same field of endeavor regarding organic waste treatment apparatuses.

At the time of the invention, it would have been obvious to alter the construction of the system of Shindo in order to ensure that the helical blade stirrers overlap in their movement. This would have aided mixing by guaranteeing that all organic materials located between the two rotation shafts are thoroughly agitated. Overlap in the mixing regions of the multiple mixing devices ensures that there is no dead area formation in the reactor.

5) Claims 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shindo (US 5587320) in view of the English translations of Kitsui (JP11300324) and/or Kitsui (JP 2001120460) as applied to claim 23, and further in view of Hudgins (US 6024513).

Shindo and Kitsui disclose the apparatus set forth in claim 23 as set forth in the 35 U.S.C. 103 rejections above, however do not expressly state that a plurality of dispensing holes are provided for moving the waste into the reactor basin.

Hudgins discloses a reactor basin (Figure 1:12) in which wastes to be decomposed are dripped through the top of the basin using a plurality of dispensing hoses. This is described in column 5, lines 5-21.

Shindo, Kitsui and Hudgins are analogous art because they are from the same field of endeavor regarding organic waste processing systems.

At the time of the invention, it would have been obvious to include a manifold comprising a plurality of openings at the drop inlet disclosed by Shindo in order to disperse waste material evenly across the reactor basin. As evidenced by Hudgins, this system for adding waste material to a fermentation system is known in the art. The inclusion of a conduit comprising multiple dispensing holes would have required only minor structural alterations to the existing device set forth by Shindo. The use of a inlet conduit comprising a plurality of openings would have been beneficial because it would have worked to improve mixing and ensure that all added waste materials are processed in an equivalent manner.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Sattler (US 20030153071) reference discloses the state of the art regarding waste treatment apparatuses.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan A. Bowers whose telephone number is (571) 272-8613. The examiner can normally be reached on Monday-Friday 8 AM to 5 PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



NAB

  
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